

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EUGENE MCKINNEY #260969,)	
Plaintiff,)	
)	No. 1:13-cv-50
-v-)	
)	HONORABLE PAUL L. MALONEY
JOYCE STEELE,)	
Defendant.)	
_____)	

ORDER ADOPTING REPORT AND RECOMMENDATION OVER OBJECTION

Plaintiff Eugene McKinney filed a *pro se* complaint against Joyce Steele alleging that Steele filed false and retaliatory disciplinary charges against him, causing him to lose his prison job assignment in the Food Services Department. Steele was properly served with the complaint (ECF No. 7) but never responded. An entry of default was filed. (ECF No. 12.) The magistrate judge issued a Report and Recommendation (“R&R”) on Plaintiff’s motion for default judgment (ECF No. 13), awarding Plaintiff \$350.00 in compensatory damages, \$1,050.00 in punitive damages, and inviting him to submit a bill of costs to cover Plaintiff’s litigation fees. (ECF No. 18.)

This matter is now before the Court on Plaintiff’s objection (ECF No. 19) to the magistrate judge’s R&R. Plaintiff objects to the \$1,050.00 punitive damage award and argues that he should be awarded \$10,000 in punitive damages. He claims that the court must recognize that Defendant’s actions have caused a decline in Plaintiff’s health that will require expensive medical care in the future for which he should be compensated. For the reasons discussed below, Plaintiff’s objections are **OVERRULED** and the Report and Recommendation is **ADOPTED**

as the opinion of this court.

After being served with a report and recommendation (R&R) issued by a magistrate judge, a party has fourteen days to file written objections to the proposed findings and recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). A district court judge reviews *de novo* the portions of the R&R to which objections have been filed. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Only those objections that are specific are entitled to a *de novo* review under the statute. *Mira v. Marshall*, 806 F.2d 636, 637 (6th Cir. 1986) (per curiam) (holding the district court need not provide *de novo* review where the objections are frivolous, conclusive or too general because the burden is on the parties to “pinpoint those portions of the magistrate’s report that the district court must specifically consider”). Failure to file an objection results in a waiver of the issue and the issue cannot be appealed. *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005); *see also Thomas v. Arn*, 474 U.S. 140, 155 (upholding the Sixth Circuit’s practice). The district court judge may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

The Court finds the Report and Recommendation accurately states the applicable facts and correctly applies the relevant law. The Court agrees that a punitive damage award of \$10,000 is excessive and would run afoul of the due process clause, for the reasons stated in the R&R. Plaintiff has provided no legal basis for the Court to depart from the established law of this circuit limiting the amount of punitive damage awards. Plaintiff’s speculative future medical expenses have no impact on the punitive damage calculation.

Accordingly, the Plaintiff’s objection (ECF No. 19) is **OVERRULED** and the magistrate judge’s Report and Recommendation (ECF No. 18) is **ADOPTED** as the opinion of this court.

Plaintiff's motion for default judgment against Joyce Steele (ECF No. 13) is **GRANTED**.

IT IS SO ORDERED.

Date: May 8, 2014

/s/ Paul L. Maloney
Paul L. Maloney
Chief United States District Judge